

**WALLA WALLA COUNTY  
WATER CONSERVANCY BOARD  
Application for Change/Transfer  
Record of Decision**

<b>For Ecology Use Only</b>
Received: _____
Date Stamp
<div style="border: 2px solid black; padding: 10px; display: inline-block;"><div style="border: 1px solid black; padding: 5px; text-align: center; font-weight: bold; font-size: 1.2em;">RECEIVED</div><div style="border: 1px solid black; padding: 5px; text-align: center; font-weight: bold; font-size: 1.2em;">DEC - 3 2004</div></div> <div style="text-align: center; font-size: 0.8em; margin-top: 5px;">DEPARTMENT OF ECOLOGY EASTERN REGIONAL OFFICE</div>

Applicant: Christopher Figgins


Application Number: ~~XXX~~ WALL -04-01

This record of decision was made by a majority of the board at an open public meeting of the Walla Walla Water Conservancy Board held on ~~August 4, 2004~~ *November 3 2004*.


**X Approval:** The Walla Walla Water Conservancy Board hereby **grants** conditional approval for the water right transfer described and conditioned within the report of examination on ~~8/4/04~~ *11/3/04* and submits this record of decision and report of examination to the Department of Ecology for final review.

☐ **Denial:** The Walla Walla Water Conservancy Board hereby **denies** conditional approval for the water right transfer as described within the report of examination on \_\_\_\_\_ and submits this record of decision to the Department of Ecology for final review.

Signed:

  
\_\_\_\_\_  
Alan Kottwitz, Chair  
Walla Walla Water Conservancy Board

Date: <u>11/3/04</u>	Approve <input checked="" type="checkbox"/>
	Deny <input type="checkbox"/>
	Abstain <input type="checkbox"/>
Recuse <input type="checkbox"/>	Other <input type="checkbox"/>

  
\_\_\_\_\_  
Brian Worden, Member  
Walla Walla Water Conservancy Board

Date: <u>11-3-04</u>	Approve <input checked="" type="checkbox"/>
	Deny <input type="checkbox"/>
	Abstain <input type="checkbox"/>
Recuse <input type="checkbox"/>	Other <input type="checkbox"/>

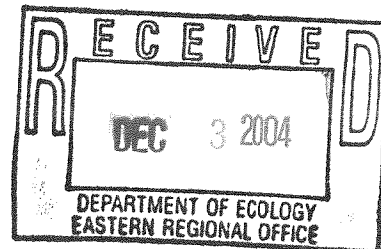
\_\_\_\_\_  
Mike Dobbins, Member  
Walla Walla Water Conservancy Board

Date: _____	Approve <input checked="" type="checkbox"/>
	Deny <input type="checkbox"/>
	Abstain <input type="checkbox"/>
Recuse <input type="checkbox"/>	Other <input type="checkbox"/>

Mailed to the Department of Ecology Eastern Regional Office of Ecology, via certified mail, and other interested parties on ~~x/x/x~~

**WALLA WALLA COUNTY  
WATER CONSERVANCY BOARD**  
Application for Change/Transfer

**Record of Decision**  
TO APPROPRIATE PUBLIC WATERS OF THE STATE OF WASHINGTON



☐ Surface Water (Issued in accordance with the provisions of Chapter 117, Laws of Washington for 1917, and amendments thereto, and the rules and regulations of the Department of Ecology.)

☒ Ground Water (Issued in accordance with the provisions of Chapter 263, Laws of Washington for 1945, and amendments thereto, and the rules and regulations of the Department of Ecology.)

DATE APPL. RECEIVED June 9, 2004	APPLICATION NUMBER	PERMIT NUMBER 5808	CERTIFICATE NUMBER 4631-A	CHANGE APPLICATION NUMBER WALL-04-01
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NAME  
Christopher Figgins

ADDRESS (STREET) (CITY) (STATE) (ZIP CODE)  
1935 Hillbrooke Drive Walla Walla WA 99362

**Changes Proposed:**

☒ Point of Diversion/Withdrawal ☒ Place of Use ☐ Purpose ☐ Temporary ☐ Other

**DECISION HISTORICAL SUMMARY**

Existing Use						Proposed Use					
QUANTITY, TYPE OF USE, PERIOD OF USE 550 gpm, 320 acre-feet per year for domestic supply, stock water and irrigation of 80 acres.						QUANTITY, TYPE OF USE, PERIOD OF USE 550 gpm, 263.49 acre-feet per year for domestic supply, stock water and irrigation of 234.46 acres.					
SOURCE Well						SOURCE 3 Wells					
TRIBUTARY OF (IF SURFACE WATER)						TRIBUTARY OF (IF SURFACE WATER)					
NO.	¼	¼	SECTION	TOWNSHIP N.	RANGE,	NO.	¼	¼	SECTION	TOWNSHIP N.	RANGE,
1	NE	NW	7	6	33	1	NE	NW	7	6	33
						2	NW	SE	16	7	37
						3	NE	SE	17	8	37
Place of Use						Place of Use					
LEGAL DESCRIPTION OF LANDS WHERE WATER IS PRESENTLY USED.) E ½ of the NW ¼ of Section 7, T. 6 N., R. 33 E.W.M.						LEGAL DESCRIPTION OF LANDS WHERE NEW USE IS PROPOSED (1) E ½ of the NW ¼ of Section 7, T. 6 N., R. 33 E.W.M. (2) 54.46 acres within the NW1/4 of the SE1/4 and the SE1/4 of the NE1/4 of Sec. 16, T. 7 N., R. 37 E.W.M. (3) 100 acres within the W1/2NW1/4 of Section 16; W1/2SE1/4 of Section 16; E1/2 of Section 17; W1/2 of the NE1/4 and SE1/4 of the NE1/4 of Section 21; W1/2NE1/4 of Section 20, and E1/2NW1/4 of Section 20, all within T. 8N., R. 37 E.W.M.					
NO.	¼	¼	SECTION	TOWNSHIP N.	RANGE,	NO.	¼	¼	SECTION	TOWNSHIP N.	RANGE, (

## BOARD DECISION

MAXIMUM CUB FT/ SECOND	MAXIMUM GAL/MINUTE	MAXIMUM ACRE-FT/YR	TYPE OF USE, PERIOD OF USE				
	550	263.49	Year round domestic supply, stock water and irrigation.				
SOURCE 3 Wells			TRIBUTARY OF (IF SURFACE WATER)				
AT A POINT LOCATED: PARCEL NO.	¼	¼	SECTION	TOWNSHIP N.	RANGE	WRIA	COUNTY.
	NE	NW	7	6	33	32	Walla Walla
	NW	SE	16	7	37	32	Walla Walla
	NE	SE	17	8	37	32	Walla Walla
LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED							
(1) E ½ of the NW ¼ of Section 7, T. 6 N., R. 33 E.W.M.							
(2) 54.46 acres within the NW1/4 of the SE1/4 and the SE1/4 of the NE1/4 of Sec. 16, T. 7 N., R. 37 E.W.M.							
(3) 100 acres within the W1/2NW1/4 of Section 16; W1/2SE1/4 of Section 16; E1/2 of Section 17; W1/2 of the NE1/4 and SE1/4 of the NE1/4 of Section 21; W1/2NE1/4 of Section 20, and E1/2NW1/4 of Section 20, all within T. 8N., R. 37 E.W.M.							
PARCEL NO.	¼	¼	SECTION	TOWNSHIP N.	RANGE,		

## DESCRIPTION OF PROPOSED WORKS

The water used at the Figgins Mill Creek property will be from a new well. A new home, pasture and vineyard are planned on the 54.46 acre property. A drip irrigation system is anticipated for any vineyard development and a solid set or hand-line will be used to irrigate any pasture.

Water used at the Derby property will originate from an existing well. About 100 acres of vineyard are planned. Any vineyard development will utilize drip irrigation. Any new buried PVC conveyance pipes will be sized according to the specific vineyard sites to be determined.

## DEVELOPMENT SCHEDULE

BEGIN PROJECT BY THIS DATE:	COMPLETE PROJECT BY THIS DATE:	COMPLETE CHANGE AND PUT WATER TO FULL USE BY THIS DATE:
9/1/2005	1/1/2015	1/1/2015

## REPORT

See WAC 173-153-130

## BACKGROUND

### A. General Background:

The water right subject to change/transfer, Ground Water Certificate No. 4631-A, as described above, is a year around irrigation use water right supplied from a well. The applicant has been irrigating various crops with this right, for several years.

## **B. Applicant Request:**

The applicant has requested to add points of diversion, change the place of use and increase the irrigated acres. The applicant has requested an extended development schedule due to the phased construction nature of the projects. Proposed plans for each of the three properties involved are described as follows.

### **Figgins Touchet Property (Existing Place of Use):**

The proposed project is to transfer a portion of ground water from the existing place of use. The property will still have irrigation water but at reduce flow and volume. The plan is to grow crops that require less water and/or have fewer acres of high use crops such as alfalfa hay and more small grains. The amount of water remaining at this property after the transfer will be 80 gallons per minute and 83.49 acre feet per year for the irrigation of 80 acres.

### **Figgins Mill Creek Property:**

The plan is to build a home with a pasture and vineyard. For planning purposes the amount of water requested was estimated assuming 10.46 acres of pasture using 2.5 acre feet per acre and 44 acres of vineyard and roadways using .77 acre feet per acre. The proposed transfer of water to this property is 120 gallons per minute and 60 acre feet per year.

### **Derby Property:**

The proposed place of use includes land covered under an existing water right transfer application (changes to Ground Water Certificate No. 7081-A). If the previous transfer is approved, then that portion of land will not be included under the place of use described in this application. Vineyard development is expected to continue for many years so the proposed places of use are general in nature. Each potential vineyard site will be evaluated on a case-by-case basis. The initial plan is develop up to 100 acres of vineyard at various locations. For planning purposes it is assumed that the vineyards will require about 1.2 feet of irrigation per acre. The proposed transfer of water to this property is 250 gallons per minute and 120 acre feet per year.

## **INVESTIGATION**

### **A. Key Issues--Water Board Review:**

The Water Board's investigation has included several issues:

First, the change/transfer request by the applicant must be consistent with existing statutory code and case law affecting water right changes/transfers. The Water Board has reviewed the condition of the water right and change/transfer request, and the Water Board concludes that the water code and case law allows for the change/transfer request designated by the applicant and described within this ROE/ROD.

Second, the total amount of water withdrawal from the well under the change/transfer request must not exceed the actual historic use. No enlargement of the water right is permitted. The water right in question has been used along with other overlapping rights, to irrigate various crops within the last 5 years. The Water Board concludes that the change/transfer will not expand the water right. Further the Water Board has conditioned the water right within this ROE/ROD to ensure that proper metering (water measurement) is installed to account for actual water use consistent with the state water code and administrative regulations.

Third, the new points of withdrawal must withdraw groundwater from the basalt flows known as the Columbia River Basalt Group. The requested new well must withdraw water from the same body of water as that allowed under the existing water right; the Water Board concludes that the new point of withdrawal will do so.

Fourth, the proposed added point of withdrawal must not impair other water rights within the area. The Water Board notes the following from existing WA State water law, the applicant's technical information, field examinations, and the WADOE well logs (WADOE website).

- 1) Impairment means that other water right holders are unable to use their water rights (whole or in part), given reasonable pumping lift with the construction of qualifying withdrawal works (adequate wells).
- 2) The proposed new well would be in the Columbia River Basalt Group.
- 3) There are no existing reports of impairment to nearby wells.

Given the above observations and review, the Water Board determines that the proposed new point of withdrawal will not create any impairment problems to other water rights/wells within the area.

#### **B. Water Right Adjudication Process:**

Water right adjudication does not affect this application.

#### **C. Public Notification Process:**

Public notification for the applicant's request was filed in the Waitsburg Times published September 2<sup>nd</sup> and 9<sup>th</sup>, 2004. A copy is provided in the attachments. The Water Board has received no public comments on this action nor has the WADOE notified the Water Board of any protests received from the public notification.

#### **D. Verification of Existing Water Right:**

The applicant has supplied acreage and cropping pattern data, which cover this, right. The Washington State University Public Agricultural Weather System (PAWS) evapotranspiration data and FSA cropping acres information were used to determine the existing water right. As no flow meter data is available, beneficial use was determined to be the consumptive use requirement of the crop. The information provided indicates that a total of 73 acres have been irrigated at up to 209.93 acre feet per year (consumptive use only from PAWS data). In addition, per RCW 90.03.380(1), the additional purpose of use requires the average of the higher 2 years to be used, less return flows, for this certificate. The average of the total consumptive use for 2002 is 209.93 acre feet and 2003 is 181.86 acre feet or an average of 195.90 acre feet. This annual consumptive quantity was calculated to be 261.19 acre feet assuming 60% efficiency (older aluminum hand lines sprinklers and aluminum above ground main line) and 20% return flow (assumed to be ½ of efficiency credit) .

Approval of the proposed changes will be provisioned such that the Annual Consumptive Quantity of water used under Certificate No. 4631-A, as defined in RCW 90.03.380 shall not exceed 261.19 acre feet per year. Information supplied by the applicant indicates that the full instantaneous quantity of water, 550 gallons per minute, allocated to this right has been used.

Summary sheets with calculations are attached.

The Water Board has reviewed the water right documentation, reviewed the applicant's technical information concerning the water right, is familiar with the existing water use and land operations, and has conducted its own review of the water right relative to change/transfer conditions as discussed above. The Water Board concludes that the water right is in good standing, subject to the conditions contained within this Record of Decision affecting change/transfer.

## **E. Field Examination:**

The field examinations were conducted by Mike Dobbins (WWWCB) and the applicant on site visits one July 16, 2004. Further, the Water Board is familiar with this area, in general. The field examination confirmed the information within the application request.

The field examination consisted of viewing the existing/proposed well sites and nearby wells, the existing water use site, and the surrounding area. A visual examination of the site planned water use area was conducted, along with a review of the applicant's maps. In essence, the field investigations confirmed information provided by the applicant, WADOE, and through supporting application materials.

## **F. Technical Information, Investigations, or Reports Reviewed:**

The Water Board has reviewed the applicant's WADOE file and records contained therein, including any reports/comments submitted by WADOE staff, and pertinent WADOE groundwater well records, and records of new applications for water rights or water right changes/transfers (received and reviewed via electronic data files).

Reviewing WADOE groundwater well records in proximity of the Figgins Mill Creek property shows that there no wells located within adjacent section  $\frac{1}{4}$   $\frac{1}{4}$  north, east, and south of the proposed well location. Records show that there are three domestic wells located in the section  $\frac{1}{4}$   $\frac{1}{4}$  west of the property. These three wells are located closer to Mill Creek on the lower ground.

According to the WADOE groundwater well records there is one domestic well located within about one section from the Derby well. The domestic well is also owned by Derby, but listed as Fred Corkrum. The well records falsely show another well, but it is only secondary work on the Derby well.

The applicant has provided technical information, personal communications, and technical references requested by the Water Board, including data to verify the existing and proposed change/transfer request; and the applicant has communicated extensively with individual Water Board members to answer specific questions about the change/transfer request. The Water Board has conducted a field examination to verify the information contained within the applicant's permit of water right and technical report. The Water Board has requested and received supplemental information from the applicant.

## **G. Associated Rights and Uses:**

### **Figgins Touchet Property, Existing Place of Use**

There is also a surface water right appurtenant to the original property in question (E  $\frac{1}{2}$  of the NW  $\frac{1}{4}$  of Section 7). Surface Water Certificate No. 7006 authorizes the diversion of water from Gardena Creek in the amount of 0.86 cfs, 258 acre-feet per year, for the irrigation of 64.5 acres. Ground Water Certificate No. 4631-A is supplemental to this surface water right.

### **Figgins Mill Creek Property**

There are no existing water rights for this property.

### **Derby Property**

Portions of the Derby Property are currently being irrigated by a Seasonal Change under Ground Water Certificate No. 7081-A. There is also Surface Water Certificate No. 110 that authorizes 1.055 cfs from the spring water. The purpose of use is stock and domestic supply with 0.01 cfs for irrigation.

## **H. Review of Potential Impairment:**

Because the proposed action will not increase the existing permitted water use, or increase the water amount put to actual beneficial use, or measurably affect other existing water rights or applications for new water rights, no impairment is perceptible. A detailed impairment review is discussed below.

The proposed change/transfer will be beneficial in the conservation and management of water resources from existing practices for the following reasons: 1) there will be no increase in withdrawal on an annual/seasonal basis after the change/transfer, compared to existing withdrawals; and 2) controls and monitoring on the quantity of water pumped will help ensure that the authorized quantity is not exceeded, as required under a metering plan.

The Water Board has published public notice of the proposed action and reviewed thoroughly any potential technical issues concerning impairment. No issues of impairment have been raised.

Existing ground water permits and wells located within the nearby area--within the same ¼ section and section--were noted according to information contained within the WADOE data base system (electronic data under WADOE website) and visual inspection.

As noted above based on the impairment review and consultations with WADOE staff, the Water Board concludes that impairment related to the water right change request is highly unlikely, because:

- 1) The additional points of withdrawal will be located within the Columbia River Basalt Group.
- 2) There are no existing reports of impairment to nearby wells.
- 3) The Water Board has reviewed any potential impairment issues; none are apparent.

The field investigation revealed that the applicant's request for change/transfer is consistent with existing land and water use practices within the immediate area, reflecting the development of and consistency with local water system needs; and consistent with the Walla Walla County Comprehensive Land Use Plan.

The change/transfer request is consistent with beneficial use considerations contained in RCW 90.03.380 and other applicable statutes. The change will not increase permitted water withdrawals or net depletions from the surface water source. More specifically, the subject application for change is consistent with public policy objectives of the Departments of Ecology and Health, to provide for efficient use of water resources, to encourage supply of new or expanding uses through transfer of existing water rights, to provide greater operational control to water managers, to encourage the development of regional water supply systems, and to provide adequate and safe supplies of water.

The Water Board decision has no impact on WADOE's existing water right decisions, the condition of local groundwater resources based on empirical data, or the priority for water rights between junior and senior water right holders within the local area. The Water Board does include conditions within this ROE/ROD to ensure that the public interest is protected--that they are consistent with actions that would be pursued by WADOE to avoid future or potential impairment problems or regulation actions.

## **CONCLUSIONS**

1. The certificate of water right and existing beneficial use provisions are verified; the applicant is following appropriate conditions and procedures for a water right certificate; the water right is in good standing.

2. The proposed change/transfer will result in no increase in the annual quantity of water permitted. The change/transfer request will not increase the water right.
3. There will be no increase in withdrawals on an annual basis. In addition, full monitoring of the quantity of water pumped will help ensure that permitted water withdrawal is not exceeded.
4. Public notice has been provided for the proposed action; no public concerns have been voiced to the Water Board. Public notice and application submittal has been forwarded to several state resource agencies/tribes/interested parties for comment; the agencies have provided no comments objecting to or indicating conditioning application approval.
5. The proposed action creates no perceived detrimental impacts or impairments to other water right holders or permit applicants; adequate data and information exists to make this determination with confidence.
6. No protests concerning this application have been received by WADOE and provided to the Water Board. No state or tribal agency contacted has provided comments—negative or otherwise.
7. The proposed action is consistent with the intent of RCW 90.03.380, 90.44.100, 90.80 (as amended May 10, 2001) and recent case reviews by the Washington State Supreme Court.
8. The proposed action supports the public interest, is consistent with allowed beneficial uses, and is consistent with local area economic development needs and land uses.
9. All applicable fees have been paid and appropriate review information submitted to the Water Board.
10. The Water Board has provided for specific conditions in granting the conditional approval and Record of Decision to ensure appropriate beneficial use.

## **RECOMMENDATIONS**

It is recommended that the Change/Transfer request be approved as submitted to add points of diversion and change the place of use.

## **PROVISIONS**

1. Use of water under this authorization shall be contingent upon the water right holder's utilization of up to date water conservation practices and maintenance of efficient delivery systems consistent with established regulation requirements and facility capabilities.
2. This authorization to make use of public waters of the State is subject to existing rights, including any existing rights held by the United States for the benefits of Indians under treaty or otherwise.
3. Water withdrawn from the authorized well under this right will be regulated in the same manner as it would if water were being diverted from the original point of diversion.
4. Future use of the water for domestic water supply will conform to all standards established by the WA State Dept. of Health.



5. All water wells constructed and operated under the permit must be constructed and operated within the state standards as provided under RCW 18.104 and Chapter 173-160 (WAC).
6. By January 1 2015, the applicant will notify the Water Resources Program, Eastern Region Office, WADOE, that the project construction is completed, unless further extended for good cause.
7. Proof of appropriation (for actual beneficial use of water) is due to the Water Resources Program, Eastern Region Office, WADOE by January 1, 2015, unless further extended for good cause.
8. The WADOE shall undertake a proof inspection to certify actual development of the water right permit as amended.
9. An approved measuring device(s) shall be installed and maintained for the sources identified herein in accordance with the rule "Requirements for Measuring and Reporting Water Use", Chapter 173-173 WAC. Water use data shall be submitted annually to Ecology by January 31st of each calendar year typically.
10. Department of Ecology personnel, upon presentation of proper credentials and prior notification, shall have access at reasonable times, to the records of water use that are kept to meet the above conditions, and to inspect at reasonable times any measuring device used to meet the above conditions, but only to the extent otherwise allowed by law.

Approved Unanimously by the WWCWCB  
Signed at Walla Walla, Washington  
This 3rd day of November 2004

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Alan Kottwitz, Chair  
Walla Walla Water Conservancy Board

# CALCULATION SUMMARY

## Figgins Touchet Property Acreage

### Estimate of Crop Water Use (CU) from PAWS Touchet Data

Year	Acres			Inches			Total Acre-Feet
	Alfalfa	Wheat	Peas	Alfalfa	Wheat	Peas	
1999		37	35	49.24	21.63	16.12	113.71
2000		35	37	50.92	21.6	16.15	112.80
2001		37	35	48.78	20.69	15.74	109.70
2002	37	35		48.6	20.6	15.15	209.93
2003	37	35		41.85	18.11	13.65	181.86
Average of two peak years (2002 & 2003)							195.90

### Irrigation Efficiency (E)

E = 60 % efficiency, assumes no leaching requirement  
Source: Table 1, Irr. Req. for WA, Bulletin XB 0925 1982

### Total Irrigation Requirement (TIR)

CIR/E = 326.49 Acre-Feet  
Return Flow 20 %, assumed to be 1/2 the efficiency credit

### Estimated Annual Consumptive Quantity (ACQ)

ACQ 261.19 Acre-Feet, (TIR \* (1-Return Flow %))

**For attachments not included or for more information please contact:**

**Karen Tusa**  
**Water Resources Program**  
**Department of Ecology, Eastern Region Office**  
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